

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI,
GREENVILLE DIVISION

LEON MINNEFIELD,

Plaintiff,

VERSUS

DOLLAR GENERAL CORPORATION
AND AMERICAN FUNDS

Defendants.

CIVIL ACTION NO. 4:06CV087-D-B

REPORT AND RECOMMENDATION

Upon further review of the file and record of the above entitled action, the undersigned finds the *pro se* plaintiff was granted leave to proceed *in forma pauperis* in this action by Order [doc. 5] dated September 13, 2006. By the same Order, plaintiff was directed to effect service upon all defendants on or before January 11, 2007. Plaintiff was warned that his failure to serve any defendant would result in a recommendation from the undersigned that said defendant be dismissed from this action. A summons was issued for Defendant American Funds on September 11, 2006. *See* Docket Entry No. 4. On February 14, 2007, a Clerk's Notice of Incomplete Process regarding Defendant American Funds was filed. *See* Docket Entry No. 18. The Notice stated that there was no record that American Funds had been served with a summons. A second Clerk's Notice of Incomplete Process regarding American Funds was filed on April 17, 2007. *See* Docket Entry No. 22.

The deadline set by the Court for service of process upon defendants has passed, and there is no record the Plaintiff has effected service upon Defendant American Funds. Furthermore, Plaintiff has not bothered to show cause for his failure to serve said defendant and has made no attempt to secure additional time. Based on this, it is my recommendation that Defendant American Funds be dismissed without prejudice from this lawsuit.

The parties are referred to Local Rule 72.2(D) for the applicable procedure in the event any party desires to file objections to the findings and recommendations herein contained. The parties are warned that any such objections are required to be in writing and must be filed within ten days of this date. Failure to timely file written objections to the proposed findings, conclusions and recommendations contained in this report will bar an aggrieved party, except upon grounds of plain error, from attacking on appeal unobjected-to proposed factual findings and legal conclusions accepted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415 (5th Cir. 1996).

Respectfully submitted this, the 27th day of April, 2007.

/s/ Eugene M. Bogen
UNITED STATES MAGISTRATE JUDGE